

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO
3 UNITED STATES OF AMERICA,
4 Plaintiff,
5 vs. NO: CR-15-4268 JB
6 ANGEL DELEON, et al.,
7 Defendants.

8
9 Transcript of excerpt of testimony of
10 WILLIAM FARMER
11 April 30, 2018, and May 1, 2018
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1 April 30, 2018

2 THE COURT: All right. So we're going to
3 call another witness. Ms. Armijo.

4 MS. ARMIJO: Bill Farmer.

5 THE COURT: All right. Mr. Farmer, if
6 you'll come up and stand next to the witness box on
7 my right, your left, before you're seated,
8 Ms. Bevel, my courtroom deputy will swear you in.

9 WILLIAM FARMER,
10 after having been first duly sworn under oath,
11 was questioned, and testified as follows:

12 THE CLERK: Please be seated. Please
13 state your name and spell your last name for the
14 record.

15 THE WITNESS: William Farmer.
16 F-A-R-M-E-R.

17 THE COURT: Ms. Armijo.

18 MS. ARMIJO: Thank you, Your Honor. And
19 Your Honor, at this time I would move, I believe
20 without objection -- there is only one that's
21 objected to and we can approach -- but without
22 objection I'm going to move Exhibits 360, 362, 363,
23 364, 372, 404, 406, 407, 408, 409, 412, 723, 728,
24 729, 759, 899, and 900.

25 THE COURT: All right. Any objection,

1 Ms. Torraco?

2 MS. TORRACO: Thank you, Your Honor. If
3 those are the photographs that Ms. Armijo just
4 showed me at the break, we have no objection.

5 THE COURT: Anybody else have any
6 objection?

7 MR. BENJAMIN: No, Your Honor, I do not
8 have any objection.

9 THE COURT: All right. Then not hearing
10 or seeing any objection, Government's Exhibits 360,
11 362, 363, 344, 372, 404, 406, 407, 409, 412, 723,
12 728, 729, 759, 899, 900. Did I get those correct,
13 Ms. Armijo?

14 MS. ARMIJO: Did you stay 364? I think
15 you said 344.

16 THE COURT: That needs to be 364?

17 MS. ARMIJO: Yes, the numbers should all
18 be, although not sequential, in order, though.

19 THE COURT: All right. So with the change
20 from 344 to 364, all those exhibits will be admitted
21 into evidence.

22 (Government Exhibits 360, 362, 363, 364,
23 372, 404, 406, 407, 408, 409, 412, 723, 728, 729,
24 759, 899, and 900 admitted.)

25 THE COURT: All right, Ms. Armijo.

1 MS. ARMIJO: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. ARMIJO:

4 Q. Please state your name again, I'm sorry.

5 A. My name is William Farmer.

6 Q. And Mr. Farmer, how are you employed?

7 A. I currently work for the Otero County
8 Emergency Services. I used to work for the State
9 Fire Marshal's Office as a full-time salaried
10 investigator.

11 Q. Okay. And when you worked for the New
12 Mexico -- what did you say, fire marshal?

13 A. The New Mexico State Fire Marshal's
14 Office.

15 Q. And tell the jury what that is.

16 A. The New Mexico State Fire Marshal's Office
17 oversees the fire department in New Mexico, all the
18 fire departments, multiple bureaus, providing
19 support. I was assigned to the Fire Investigations
20 Bureau which conducts fire origin and cause
21 examinations all through the state.

22 Q. And when was it that you were employed
23 with the New Mexico Fire Marshal's Office?

24 A. I started in February of 2008, and I left
25 in September of 2017.

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1 Q. And are you still doing, although for a
2 different agency, work as far as fire
3 investigations?

4 A. Yes, ma'am. I still conduct fire
5 investigations for Otero County Emergency Services.

6 Q. And back in 2012, what was your specific
7 title?

8 A. I was a fire investigator in the Fire
9 Investigations Bureau. I was responsible for the
10 southern region, which is all -- from Highway 60,
11 the county lines adjacent south from Arizona to
12 Texas.

13 Q. And do you recall responding to a fire on
14 November 12 of 2012?

15 A. Yes, ma'am.

16 Q. And do you recall the area that you were
17 called out?

18 A. Yes. We were in the bosque area just
19 south of Highway 60.

20 Q. Did that include the area that you
21 covered?

22 A. Yes.

23 Q. And do you recall approximately what time
24 you arrived on the scene?

25 A. I'm not sure on the time. It was -- I

1 think I got the call, like, 10:00 or somewhere in
2 there. I arrived on scene, drive time afterwards,
3 sometime around midnight, maybe a little after.

4 Q. And when you arrived, was New Mexico State
5 Police already there, or were they in the process of
6 arriving, as well, to investigate the scene?

7 A. There were some state police officers on
8 scene, but they were in the process of arriving, as
9 well.

10 Q. And as part of your job, do you talk to
11 the fire crew that responded?

12 A. Yes, ma'am.

13 Q. And can you tell us who -- which fire crew
14 responded?

15 A. I believe it was Veguita Fire Department.
16 My contact was with Socorro County Fire Marshal's
17 Office.

18 Q. Who was the one that responded?

19 A. I believe it was Veguita Fire Department.

20 Q. And was that a volunteer fire department?

21 A. Yes, it was.

22 Q. How far is their fire department from
23 where the actual fire was?

24 A. A significant distance. They're up
25 Highway 60 several miles and then to the north a

1 couple more miles. I don't know the exact mileage,
2 but it's pretty significant.

3 Q. It's a significant distance?

4 A. Yes, ma'am.

5 Q. All right. When you initially got there,
6 what is the first process that you do?

7 A. The first process that I do is meet with
8 the on-scene contact, whoever called me as the fire
9 marshal out. Get a quick debriefing, meet with law
10 enforcement in this case so we're all on the same
11 team, same page, and then conduct a perimeter
12 search, including a site safety survey, to assess
13 for any latent hazards or ditches or something like
14 that that we could fall in, anything that looks like
15 it could be falling, and to conduct, during that
16 search, photo-document the scene and everything
17 around it.

18 Q. Now, did you, in fact, take photographs?

19 A. Yes, ma'am, I did.

20 Q. Okay. And do we have your photographs
21 today?

22 A. No, you do not. I suffered a computer
23 crash while backing up my computer to the server for
24 the State Fire Marshal's Office, and it completely
25 wiped out a whole pile of case files, including this

1 case, unfortunately.

2 Q. Do you have an independent memory of this
3 case as you testify today? Did you -- the
4 circumstances of this investigation?

5 A. Yes, ma'am.

6 Q. And was New Mexico State Police there
7 responding and treating it as a criminal
8 investigation?

9 A. Yes, ma'am.

10 Q. So is there any priority between your
11 investigation and the criminal investigation? How
12 does that work?

13 A. Typically, fire investigation evidence is
14 a little more resilient. It's not quite as
15 frangible as some of the other evidence that could
16 be on a crime scene. So we typically follow in
17 right behind -- you know, we collectively, as fire
18 investigators, fall in right behind the state police
19 crime scene team in this case who is doing the
20 search for homicides or any other crimes. We fall
21 in right behind them and concurrently, where
22 possible. So as I'm conducting my perimeter search,
23 the state police was also conducting their perimeter
24 search. And then we kind of step back, let them
25 process their portion until it's good for us to go

1 in without altering any evidence.

2 Q. Explain what a perimeter search is.

3 A. A perimeter search is just a walk-around
4 of the outside typically up to 150, 200 feet away
5 from the scene looking for, you know, whatever the
6 outskirts of the scene are, looking for that, and
7 anything that's inside that, you know, we need to
8 expand our scene, we need to contract it down,
9 something like that.

10 Q. And what were your initial observations of
11 the scene?

12 A. There was a vehicle that was heavily
13 impacted by fire. There was a large amount of
14 vegetation surrounding the vehicle that was also
15 impacted by fire radiating upward and outward from
16 the vehicle, and one decedent located to the rear of
17 the vehicle.

18 Q. All right. And I am going to show Exhibit
19 Number -- well, let me first show Exhibit Number
20 360. All right. Are you familiar with this scene?

21 A. Yes, that's the vehicle from that scene.

22 Q. And is it fair to say that there were
23 photographs taken both in the dark and then as it
24 got lighter? On the 13th of November, there were
25 also photographs taken?

1 A. Yes, ma'am.

2 Q. Okay. And can you tell when this
3 photograph was taken?

4 A. This looks to be in the dark sometime in
5 the early stages of the investigation before the sun
6 came up.

7 Q. And what did you notice about this
8 vehicle? Is this how the vehicle appeared when you
9 got close in to the perimeter?

10 A. Yes, ma'am. This is exactly how the
11 vehicle was found when I arrived on scene.

12 Q. All right. And I'm actually going to pull
13 back and now display Exhibit Number 723, please. Is
14 this one of those daylight pictures we were talking
15 about?

16 A. Yes, ma'am. This was taken, it appears,
17 right as the sun was coming up or a little after.

18 Q. And we see a variety of numbers there.
19 Are those your numbers or are those New Mexico State
20 Police numbers?

21 A. Those are New Mexico State Police.

22 Q. And what about the orange flags we see?

23 A. That also belongs to the state police.

24 Q. And do we see the vehicle that we saw in
25 the previous picture in this picture?

1 A. Yes, ma'am, in the top right-hand corner.

2 Q. And I'm circling the top right-hand
3 corner. Is that the vehicle through vegetation?

4 A. Yes, ma'am.

5 Q. And where would the body be in connection
6 with this photograph, if you know?

7 A. Just directly to the rear of that in the
8 top right-hand corner, I believe.

9 Q. Okay. Now, is there anything that was
10 significant to you? And obviously, these cones or
11 markers and flags were not in the picture, but was
12 there anything that we can see in this picture
13 that's of significance to you when you were doing
14 your fire inspection?

15 A. Yes, there is.

16 Q. And you can touch the screen and it
17 will -- if you touch the screen and mark, if you
18 need to mark, it will show up.

19 A. Right in this area here we have a
20 significant amount of fire that has propagated from
21 the vehicle into the surrounding vegetation and
22 radiated upward and outward. You can also -- it's
23 kind of hard to see in this picture, but the fire is
24 also in this area around here, too. It spread from
25 the vehicle, not from the vegetation to the vehicle.

1 Q. Okay. And how were you able to determine
2 that?

3 A. Fire movement intensity patterns. As fire
4 burns and comes in contact with combustible
5 surfaces, it leaves very distinct patterns that are
6 recognizable and you can analyze that and interpret
7 that into directionality and the intensity of the
8 fire.

9 Q. So were you able to determine where the
10 fire started?

11 A. Yes, ma'am. The fire originates in
12 multiple points of origin that were completely
13 unconnected. There is no communication between the
14 two points of origin. One point of origin is in the
15 backseat of the vehicle, somewhere in the backseat,
16 and then another one directly adjacent to the
17 decedent.

18 Q. All right. And I'm going to show Exhibit
19 Number 363 now. And are we looking at the left-hand
20 side of the vehicle?

21 A. Yes, that would be the driver's side of
22 the vehicle.

23 Q. Okay. And so what is significant about
24 this scene?

25 A. From the exterior, we're able to see fire

1 movement intensity patterns that have radiated out
2 from the vehicle. Some of the motion patterns I was
3 speaking of -- this is actually what we would refer
4 to as a V pattern, radiating upwards and outwards
5 from the backseat area.

6 These random spots here are indications of
7 heat shadowing or a fire in the backseat coming
8 through the holes in the structure of the door and
9 impacting the exterior surface of the vehicle. This
10 is all interior fire. You'll note the distortion up
11 here on the roof. That is consistent with a fire
12 originating within a vehicle and impacting the roof
13 first. As heat rises, it impacts the metal and
14 causes all the distortion because it's expanding and
15 contracting at different rates and creating that
16 distortion.

17 We also see fire patterns here and here
18 basically that are fire entraining out of the
19 windows. As the windows fail, the fire and smoke
20 has a place to go and a place to suck in fresh
21 oxygen. Everybody knows that fire needs oxygen to
22 breathe. It's coming in through those windows, as
23 well as venting all the smoke out.

24 The trunk -- these fire patterns are
25 consistent with the fire inside the vehicle

1 impacting the trunk lid in position. As the trunk
2 lid is standing up, it is a different geometry than
3 the rest of the car, so the fire is impacting the
4 trunk lid through the back window right here and
5 generating these fire patterns that we also see.

6 Q. And can you tell whether or not that trunk
7 was open or shut when the fire started?

8 A. I did not find anything to indicate that
9 it moved from its prefire condition. All fire
10 patterns are consistent with the trunk being open at
11 the time the fire impacted it.

12 Q. And the fire -- and the point of origin
13 within the vehicle was the backseat?

14 A. Somewhere in the backseat. Fire patterns
15 within the backseat itself were fairly homogenous.
16 They were all pretty well uniform. So I couldn't
17 narrow it down to a specific point of origin more
18 than just the backseat area.

19 Q. All right. And I'm showing Exhibit Number
20 364. What is it that we're looking at?

21 A. That would be the hood of the vehicle,
22 looking into the interior passenger compartment.

23 Q. Okay. And are the things that we see here
24 inside -- is that where the seats would be?

25 A. Yes, that's what remains of the seats.

1 That is the substructure of the seats after all the
2 combustible material had burned away from it,
3 including the foam padding and whatever covering it
4 had.

5 Also, in this picture you're getting a
6 glimpse into the engine compartment through these
7 holes, and there are combustible materials within
8 the engine compartment that haven't totally
9 consumed, such as aluminum. Some of these aluminum
10 structures are still intact, whereas on the rear of
11 the vehicle most of the aluminum has gone away.

12 Q. You talked a little bit earlier about
13 communication. What did you mean by that?

14 A. Fire, like any other heat, transfers in
15 three modes, either through convection, conduction,
16 or radiation, or direct flame impingement. In this
17 case, the fire propagating upward and outward from
18 the vehicle is affecting the vegetation around it
19 and it's moving on and getting bigger and bigger as
20 it goes. The point of origin adjacent to the seat
21 was in an area that was protected by his body itself
22 that should have been protected from any heat
23 exposure or radiant heat damage and it was not.
24 There was significant fire damage directly in front
25 of him in his, like, lower torso area that should

1 have been protected.

2 Q. And I'm going to show Exhibit Number 412.

3 All right, now, what is it that we're looking at
4 here?

5 A. This is the decedent in his condition as
6 we found him at the scene. If you'll notice the
7 vehicle is here. I don't know if it's drawing or
8 not. The vehicle is here. So radiant heat moves in
9 straight lines. It's like the warmth of the sun.
10 It's the same principle. So if anything blocks
11 that, it should be like a shadow. You should have
12 the heat shadowing similar to what we have on the
13 door of the vehicle. So his body here should have
14 protected this area from receiving damage, and it
15 did not. That's a separate and unconnected point of
16 origin. There is no way that a fire here created
17 this damage, and there is no way the fire here
18 created this damage.

19 Q. Okay. And you were pointing to the
20 picture in different places. So in other words,
21 just for the record, is it your testimony that the
22 fire in the vehicle did not create the damage in the
23 front part of the body: Is that correct?

24 A. Yes, ma'am.

25 Q. And then the damage from -- the fire

1 damage that we see on the body in the front did not
2 cause any damage to the vehicle?

3 A. Correct.

4 Q. Okay. And that's what you meant.

5 Now, what significance was there, as far
6 as when you noticed the body? Did you do an
7 inspection and eventually were you there when the
8 body was lifted?

9 A. Yes, I was. I did an inspection, photo
10 documentation of the body in its location.

11 Q. Okay.

12 A. And as the body was removed and rolled
13 over, we examined the underside and then found the
14 area underneath the clothing, as well.

15 Q. Did you have an opportunity to take soil
16 samples from underneath the body?

17 A. Yes, ma'am.

18 Q. What was purpose of taking soil samples?

19 A. It's policy and procedure for the State
20 Fire Marshal's Office, we take samples from
21 underneath the decedent in all fatal fires. So we
22 automatically took that soil sample from underneath
23 the decedent. This also happened to be an area of
24 fire origin, which is commonly where we take the
25 soil samples from.

1 Q. If we can, while we have this exhibit up,
2 412, is there a difference between the damage to the
3 body in the lower extremities as opposed to his
4 upper extremities and head area?

5 A. Yes, ma'am. In the area of his feet and
6 legs, this area back here, there is more significant
7 damage. His clothing has been burned. The body
8 received more extensive burns up here in the head
9 area and upper torso area. There was clothing still
10 intact. There is a plastic bag over the decedent's
11 head that was not melted and destroyed, which is a
12 relatively light combustible, which should be
13 destroyed fairly easily in a fire.

14 Q. And what do you do with the final samples
15 once you obtain them? Do you submit them to the lab
16 for analysis?

17 A. Yes, we do.

18 Q. And do you know the results of it? And if
19 you don't -- do you?

20 A. Yes. The samples came back positive for
21 gasoline.

22 MS. ARMIJO: All right. And with that I
23 pass the witness, Your Honor.

24 THE COURT: Thank you, Ms. Armijo.

25 Ms. Torraco, do you have cross-examination

1 of Mr. Farmer?

2 MS. TORRACO: Thank you, Your Honor.

3 THE COURT: Ms. Torraco.

4 CROSS-EXAMINATION

5 BY MS. TORRACO:

6 Q. Good afternoon. How are you?

7 A. Good.

8 Q. So if I heard you correctly -- I'm going
9 to repeat what I think that you testified to, and
10 then will you tell me if I'm correct? But what I
11 heard you testify to was that there was a fire
12 started in the backseat of the vehicle. That's your
13 professional opinion. And then there was also a
14 fire -- or gasoline poured on this body and a fire
15 started there; is that correct?

16 A. Yes, ma'am.

17 Q. Okay. So the fire that started in the
18 vehicle -- do you know how much -- was it gasoline?
19 Or do you know what the -- what's the term for what
20 ignites? Accelerant. Is that right?

21 A. Yes, accelerant or flammable liquids used
22 as an accelerant.

23 Q. So we know that it was most likely
24 gasoline that was poured on the body; correct?

25 A. Correct.

1 Q. Was it also gasoline that was poured on
2 the vehicle?

3 A. That is possible. I did not narrow it
4 down to a specific point of fire origin, which is
5 consistent with the usage of ignitable liquids. As
6 ignitable liquids are poured, it generally results
7 in a large-area fire origin.

8 Q. Say that again in, like, just one step
9 intellectually down. Remember, I'm the one that
10 didn't know the term accelerant. So help me out
11 here?

12 A. As you pour an accelerant, whatever that
13 is, you pour a liquid, it's not in a container and
14 it spreads out, and so if you use, say, gasoline to
15 ignite a fire, typically once the gasoline hits the
16 ground or whatever it's getting up on, it spreads
17 out, depending on how much gasoline there is. So
18 that is consistent with what we found in the
19 backseat, which is the fire patterns are pretty
20 uniform all the way across the backseat.

21 Q. Okay. So that would mean that whoever did
22 this poured enough gasoline to cover the entire
23 backseat cushion.

24 A. Potentially. It's hard to say how much
25 gasoline or ignitable liquid was used.

1 Q. But it was enough to have these back
2 cushions soaked?

3 A. Yes.

4 Q. Because you said it was a uniform burn.
5 It wasn't just a burn just on the right side of the
6 vehicle or the left side. It was a uniform burn in
7 the back; correct?

8 A. Yes, ma'am.

9 Q. And you also testified that this bag was
10 over his head. In the photograph, that bag was not
11 on his head. Is that -- has the body been moved?

12 A. No, ma'am. From my recollection, the bag
13 was around his head, in his head area.

14 Q. Okay. Well, that's different than over
15 his head. If you look at that photo again -- which
16 I have no desire to put that photograph up again --
17 but the bag was on the ground by his head. Is that
18 a fair characterization, or should we publish that
19 picture again?

20 A. When we rolled the body and removed the
21 bag, the bag was covering the top of his head.

22 Q. The bag was what?

23 A. It was covering the top of his head. It
24 was on both sides.

25 Q. Covering part of his head, or the entire

1 head?

2 A. I don't recall if it was the --

3 Q. Okay. Did it go all the way down to the
4 neck?

5 A. I don't recall where it ended.

6 Q. Okay. Now, the body -- are there
7 different stages that a body burns in?

8 A. Yes.

9 Q. Okay. So I know I've heard, like,
10 first-degree, second-degree burns; right?

11 A. Yes.

12 Q. So how would you describe the burning of
13 this particular body?

14 A. That would typically be for OMI to
15 characterize the degree of burns.

16 Q. Okay.

17 A. However, there were some fourth-degree
18 burns on the abdomen area and towards the back of
19 the legs.

20 Q. Okay. But his clothes -- some of his
21 clothes were still intact; correct?

22 A. Yes, ma'am.

23 Q. And so why would it be that officially the
24 shoulder and head clothing was still intact?

25 A. Close proximity to the body.

1 Q. And the socks were also -- part of the
2 socks were still intact; correct?

3 A. I believe so, yes, ma'am.

4 Q. And did he have his shoes on?

5 A. I don't recall about shoes.

6 Q. And that last picture, I couldn't tell if
7 it was a shoe or a sock.

8 A. I don't recall. I'd have to see it.

9 Q. Okay. Do you do any studying about the
10 clothing burning patterns?

11 A. Clothing is ordinary combustibles similar
12 to clothing that are just laying in a house. So
13 that is within the realm of fire investigations,
14 because the fire movement intensity patterns affect
15 clothing that's on the body the same way they affect
16 clothes that are hanging in a closet or laying on
17 the floor.

18 Q. So what conclusion do you draw by the fact
19 that the clothing wasn't fully burned?

20 A. That there was two separate points of --
21 or areas of fire impacting the body. The area of
22 fire origin directly in front of the decedent, in
23 his lower torso, was in close proximity to him, but
24 did not propagate through the ordinary combustibles
25 that were available, meaning to say that the fuel

1 package was not sufficient to support --

2 Q. Or it didn't burn for very long?

3 A. Correct.

4 Q. Okay. Isn't it true that a car could
5 ignite into a ball of flames in as little as four
6 minutes?

7 A. Depending on a lot of factors. It is
8 true. The ignition of the fire has a lot to do with
9 it. The fire propagation, ventilation, ambient
10 temperature, humidity. That can all go into it.

11 Q. Okay. We have an exhibit.

12 I'm sorry, Ms. Gilbert, I didn't give you
13 advance warning. I believe it's 358.

14 I'm supposed to tell her ahead of time and
15 I forgot.

16 While she's putting it up, isn't it true
17 that gas can cause a fire to light up very quickly?

18 A. Yes.

19 Q. Isn't that true?

20 A. Yes.

21 Q. And it could also have very large flames
22 very quickly?

23 A. Depending on the amount of fuel used, yes.

24 Q. So it is possible that in a matter of
25 minutes there is evidence that a car is on fire?

1 A. Yes. Through my own testing as State Fire
2 Marshal's Office and teaching classes and
3 instructing at the Academy, we've lit a lot of cars
4 on fire. I've seen cars with gasoline go right now,
5 and I've seen cars lit with gasoline that take
6 several minutes before fire starts propagating
7 throughout the interior of the compartment.

8 Q. So I'd like to repeat what I think you
9 said. When you said they can go right now, you mean
10 they're immediately combustible?

11 A. There is immediately a large fire within
12 the compartment.

13 Q. And "immediately" is within 30 seconds.

14 A. Yes. Gasoline is very volatile, so in
15 large quantities, when it is ignited, it can
16 propagate very, very rapidly. Also, if it has the
17 thermal inertia -- you know, the heat to keep going,
18 as it impacts all the combustibles that are around
19 it, it can absolutely cause a fire to propagate very
20 quickly. That's why it's classified as an
21 accelerant. But if it impacts the combustibles
22 around it without a lot of thermal inertia, it can
23 take a very long time to ignite the surrounding
24 fire -- or the surrounding combustibles.

25 Q. When you say "quickly," we're talking

1 about within 30 seconds? I just made that number
2 up. I don't even know. What's quickly?

3 A. Sometimes it can take several minutes.
4 Sometimes it can be very, like, within a few
5 seconds. It depends on the amount of fuel used and
6 ventilation available.

7 Q. Okay.

8 MS. TORRACO: Could I have just a moment,
9 Your Honor?

10 THE COURT: You may.

11 BY MS. TORRACO:

12 Q. Okay. I'd like to publish 358, with the
13 Court's permission. It has been admitted. I think
14 it's going to come up on the screen. There we go.
15 In the foreground in almost the center of this
16 photograph, there is vegetation; correct?

17 A. Yes, ma'am.

18 Q. And then also -- if I touch this, does
19 it -- let me just see. It does.

20 So also right here, do you see this
21 vegetation here?

22 A. Yes, ma'am.

23 Q. How far away is that from the vehicle?
24 Did you take measurements?

25 A. I don't recall how far away that was.

1 Most of the measurements for the diagrams were left
2 to state police with the total scan station because
3 it's much more accurate than a school boy with a
4 tape measure.

5 Q. I notice also right behind the vehicle
6 there is vegetation on those two circles as well; is
7 that correct?

8 A. Yes, ma'am.

9 MS. ARMIJO: Your Honor, I don't think
10 this is admitted.

11 THE COURT: I'm not finding it admitted
12 either. Why don't we pull it down for a second?

13 MS. TORRACO: I can either lay a
14 foundation or move to admit it.

15 THE COURT: Do you have any objection to
16 its admission?

17 MS. ARMIJO: We do not.

18 THE COURT: Do you want to just move its
19 admission, Ms. Torraco?

20 MS. TORRACO: Yes.

21 THE COURT: Any objection from anyone
22 else?

23 MR. BENJAMIN: No, Your Honor.

24 THE COURT: All right. Government's
25 Exhibit 358 will be admitted into evidence.

1 (Government Exhibit 358 admitted.)

2 MS. TORRACO: And that was my mistake. I
3 believe that the admission was 359, but we can look
4 at both pictures.

5 BY MS. TORRACO:

6 Q. So the vegetation here that's closer to
7 the car -- does it look like that was affected by
8 the fire?

9 A. It was affected by the fire. However,
10 what you see in this picture is examples of the heat
11 shadowing that we were speaking of earlier. The
12 fire has impacted the side of the vegetation facing
13 the camera less than the side facing away from the
14 camera.

15 Q. Okay. Say that again, take it down one
16 step for me?

17 A. The vegetation that we're looking at, the
18 grass and the weeds and that stuff, is burned less
19 significantly on this side than it is on the other
20 side. Because of the radiant heat leaving the
21 vehicle and the fire moving in that direction, it
22 impacts the side that it hits first and it's heat
23 shadowing on the back in a protected pattern.

24 Q. But isn't it true that if the fire had
25 been burning for a significant amount of time, we

1 wouldn't be seeing that vegetation?

2 A. No, ma'am. That is possible. However,
3 this vegetation did not burn very effectively at
4 all. I'm sure the fuel humidity was a big
5 contributing factor into the amount of fire the
6 vegetation burned.

7 Q. Okay. But I asked you, isn't it true that
8 if it had burned longer, that would have been
9 burned, and you first said no, and then you said,
10 "Well, probably."

11 Isn't it true that if the fire burned for
12 a longer period of time, a lot of that vegetation
13 would not be present? I mean, we see wildfires all
14 the time that take over entire areas.

15 A. Right. The fire propagation in the big
16 moonscaped pictures that you see from wild land
17 fires where it's just toothpicks and just completely
18 moonscaped, that fire is significantly propagating.

19 On the same fires where you see that
20 picture, if you go back to the area of fire origin,
21 you will see vegetation just like this. As the fire
22 impacts the vegetation on its way by, it burns the
23 combustibles on this side and keeps traveling. So
24 unless there was fire coming back this direction,
25 you probably would still be seeing this after the

1 fire burned.

2 Q. So you're telling us and the jury that
3 this vegetation like right here and right here and
4 right here and right here was never going to burn,
5 even if it had burned for an hour?

6 A. No, ma'am. I'm telling you that this
7 clump of grass right here that I circled in purple,
8 and these sticks, would not have been any more
9 affected than they were as the fire was moving.
10 These clumps here -- as the fire progresses, of
11 course, it would impact vegetation further along the
12 line.

13 Q. So let's talk about the ones where I put
14 all the red arrows. Isn't it true that those would
15 have been burned if the fire had been going for
16 longer?

17 A. If the fire propagated that far, yes.

18 Q. So we would expect these that I'm touching
19 my -- having fun on the screen, quite honestly; I've
20 never done this before -- but isn't it true that
21 those would have burned if the fire had lasted a
22 significant amount of time?

23 A. Depending on the fuel and humidity, it's
24 possible, yes.

25 Q. And on November 12 of 2012, it hasn't

1 rained; isn't that true?

2 A. I don't recall the weather.

3 Q. And there wasn't significant humidity in
4 this area at that time; isn't that true?

5 A. That's possible. The fuel humidity
6 depends on the fuel moisture from it getting
7 watered. We were in close proximity to the river.
8 I cannot testify to the fuel humidity in the
9 wildland fuel package surrounding the...

10 Q. Let me repeat what I think that you said.
11 You basically testified that all of this upper
12 vegetation, the higher areas, would disappear with
13 fire. The lower areas, very close to the ground,
14 would stay; isn't that true?

15 A. It would at the very least be impacted,
16 yes.

17 Q. But we don't see impact on this high
18 ground; isn't that true? On this high vegetation?

19 A. We're also looking at the side away from
20 the fire propagation.

21 Q. Well, we're looking at the side where the
22 trunk is.

23 A. Let me elaborate what I mean. The stick
24 is like this, or say this microphone. As the fire
25 is traveling this way, it's impacting this side

1 first, because that's the side facing the vehicle,
2 the way that the fire is moving. And we are looking
3 at this side.

4 Q. Do we have 359 admitted? So I'd ask that
5 we take a look at 359. Is this a better angle now?

6 A. Yes, ma'am.

7 Q. So if you'll notice, there is still
8 vegetation which is significantly close to the
9 vehicle. And I've marked those with my hands. By
10 the passenger -- I'm sorry, the driver rear tire,
11 would you expect that vegetation to be affected by a
12 fire?

13 A. It is affected by the fire. But yes, I
14 would be expect it to be impacted, especially right
15 in this area here.

16 Q. And the first one that you drew with the
17 purple line, the closest to the vehicle -- if this
18 car had burned for any significant amount of time,
19 isn't it true that you would not be seeing that
20 vegetation?

21 A. That is possible. If the fire had not
22 burned for a significant period of time, we wouldn't
23 be looking at the significant degree of damage to
24 the vehicle, however.

25 Q. Okay. So isn't it true that we've got a

1 fire. Let's say that I've gone camping and I'm
2 irresponsible, and I kind of hose off the fire, but
3 there still can be the embers that still supply heat
4 to the fire; right?

5 A. Uh-huh.

6 Q. And so isn't it true that even after the
7 flames are extinguished, there is still some ongoing
8 damage that's occurring to the vehicle; right?

9 A. After the flames are extinguished, there
10 are hot spots in the vehicle that are embers, there
11 are areas of charcoal. The majority of the interior
12 of this car is not organic material. It's all
13 plastics and foam and carpet and CDs and whatever
14 else people have in their car. With a campfire, you
15 have a large fuel package. You know, the wood is
16 very, very big, and so it tends to generate larger
17 coals because of the fuel geometry and the length of
18 time that it burns. If you have a campfire and you
19 put it out within 10 minutes of it burning, you're
20 not going to have a lot of coals. If you burn the
21 campfire for 12, 14 hours straight, the ground is
22 very hot, the embers are really hot, all the
23 leftover ash is very, very hot.

24 We did have on this scene evidence of
25 smoldering and hot spots within the vehicle that the

1 fire department extinguished.

2 Q. And what time did the fire department
3 extinguish the vehicle?

4 A. I don't recall, ma'am.

5 Q. And was there -- the damage, was it the
6 fire that was over here or -- when you identified
7 two different areas, or was it just the vehicle and
8 the body?

9 A. I'm sorry? Say that again.

10 Q. Were there only the two spots -- isn't it
11 true that there were only two spots where the fire
12 initiated?

13 A. There were two separate and unconnected
14 areas of origin, yes.

15 Q. Okay. And do we have a picture of the
16 other side of the vehicle? So at the Academy you
17 guys light cars?

18 A. We do. The fire investigations program,
19 we have our own building, burn building, at the
20 Academy where we do all kinds of fire training.
21 It's actually set up to where we sheetrock the
22 inside, add a sprinkler system. We can sheetrock,
23 tape, texture, set up like a house using furniture
24 from, like, a Goodwill store, something like that,
25 light it on fire, and different scenarios, and then

1 students trace that fire patterns back, teach them
2 how to do investigations. And we also do the same
3 thing with vehicles.

4 Q. Okay. Thank you very much. Thank you for
5 the education.

6 MS. TORRACO: I'll pass the witness.

7 THE COURT: Thank you, Ms. Torraco.

8 MS. TORRACO: Thank you, Your Honor.

9 THE COURT: Mr. Benjamin, do you have
10 cross-examination of Mr. Farmer?

11 MR. BENJAMIN: Yes, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. BENJAMIN:

14 Q. Good afternoon, sir.

15 A. Good afternoon.

16 Q. We heard about the photos, but I apologize
17 if I missed it. Did you do a report in this matter?

18 A. Yes, sir. I completed a report. It was
19 in with my case file. When the computer crash
20 occurred, while backing up to the server, it backed
21 the server up to my computer, not my computer up to
22 the server, and it wiped out several cases.

23 Q. Okay. So the report was along with the
24 photos?

25 A. Yes, sir. The report, the case file, all

1 my notes, photographs, everything.

2 Q. When was that?

3 A. That was in 2013, I believe. It was the
4 next summer, so...

5 Q. So November, the following summer?

6 A. Right.

7 Q. Summer of 2013?

8 A. Yes, sir.

9 Q. Okay. You tested a pail -- or you
10 collected a pail of material from underneath the
11 body that was found at the scene; correct?

12 A. Yes.

13 Q. You didn't collect a pail underneath the
14 car, though?

15 A. I don't remember taking a sample
16 underneath the car, which is not unusual.

17 Q. And if the receipts suggest that there was
18 a pail of material collected from a body but we
19 don't see any other receipts, would that be
20 consistent with your memory?

21 A. Yes, that would be.

22 Q. Did you take one or two soil samples below
23 the body?

24 A. I don't recall. I don't recall, sir.

25 Q. I guess what I'm wondering about is, it's

1 described as a silver pail; correct?

2 A. Correct. It's a one-gallon metal paint
3 can that we use.

4 Q. Okay. And so there was essentially just
5 dirt dug up underneath the body. But you pointed
6 out that the body had essentially two different
7 probably burned characteristics. The top of the
8 torso wasn't very burned. It was protected by the
9 clothing. Whereas the lower torso was burned; is
10 that fair?

11 A. Yes, the torso was protected from, like,
12 geometry and the clothing, and you know...

13 Q. The hood of the jacket or sweater was
14 essentially all but intact; right?

15 A. I don't specifically recall the hood, but
16 the clothing was apparently intact on top.

17 Q. And I guess what I'm asking is: The soil
18 sample that was taken, was that from the center of
19 the body, down by the feet? Were you able to
20 determine where fuel was poured on this body?

21 A. The area directly in front of his lower
22 torso.

23 Q. Okay.

24 A. You know, the front pelvis area. Where
25 the most significant damage was is where we took the

1 sample because that looked consistent with ignitable
2 liquid. It was a fire pattern that was very unusual
3 and very irregular, and so that's where we took the
4 soil sample from.

5 Q. And in researching this, did you -- I
6 mean, you were assuming that somebody was pouring
7 gas on it, I think is what your testimony was;
8 correct?

9 A. Yes, somebody.

10 Q. And when you asked for that to be tested,
11 did you find out whether it was gas -- when I say
12 gasoline, I'm essentially referring to unleaded --
13 did you find out if that was diesel, or what it was?

14 A. I believe it came back as gasoline.

15 Q. And did you review that when it came back?

16 A. I'm certain I did.

17 Q. And I apologize, but when you say, "I'm
18 certain I did," that sounds more like: My norm is
19 to have done it. But do you remember doing it?

20 A. I don't remember specifically doing it,
21 no.

22 Q. Do you also send in items that were
23 collected by the investigation if they were
24 collected outside of the -- the area that we're
25 looking at in the photo we'll call the bosque.

1 Okay? If there was other items in this
2 investigation that were recovered, were you
3 responsible for sending those for testing?

4 A. The New Mexico State Fire Marshal's Office
5 is an assist agency. We assist local and state
6 jurisdictions with fire investigations. If the
7 state police -- you know, if we did a fire here in
8 Las Cruces and Las Cruces asked us to send
9 something, we most certainly would. The same with
10 state police. However, they are more than capable
11 of submitting their own evidence to the labs, as
12 well.

13 Q. Who would submit a jacket for testing that
14 wasn't found at the bosque?

15 A. If they were submitting it for ignitable
16 liquids?

17 Q. Yes.

18 A. They would have their own capability of
19 submitting it or they could call us and we would
20 submit it.

21 THE COURT: Is this a good time for us to
22 take our break for the evening?

23 MR. BENJAMIN: May I have 30 seconds to
24 see if we can do that, Your Honor?

25 It is a good time.

1 THE COURT: All right. We'll be back at
2 8:30. Appreciate your hard work today. We'll see
3 y'all in the morning. All rise.
4
5

6 May 1, 2018
7

8 THE COURT: All right. Looks like we've
9 got everybody, all the defendants in the courtroom.
10 Looks like we've got a lawyer for each defendant in
11 the courtroom.

12 Ms. Torraco, do you need to put something
13 on the record?

14 MS. TORRACO: Good morning, Your Honor.

15 THE COURT: Ms. Torraco.

16 MS. TORRACO: Thank you. I just wanted to
17 let the Court know that this morning when I was
18 pulling into the parking lot, a pedestrian walked
19 right in front of me and I had to halt my car pretty
20 quickly, only to find out that it was a juror. So I
21 wanted to make light of it so she didn't think that
22 I was intentionally trying to run her over, and
23 waved, and we kind of chuckled and all that. So I
24 don't think there was any -- I hope there was no
25 harm, but I want to make sure the Court is aware of

1 it. Thank you, sir.

2 THE COURT: Thank you, Ms. Torracco. Don't
3 run over my jurors.

4 (A discussion was held off the record.)

5 THE COURT: Do y'all have something to
6 discuss, Mr. Cooper?

7 MR. COOPER: We do, Your Honor. We have
8 been working a lot, and Maria and Cori actually were
9 doing most of it last night until I went to bed,
10 actually. But we have a script. We're beyond --
11 we're talking about percentages of time for the
12 Government's direct and our cross. We're not at a
13 place where we really have come to an agreement, but
14 we've got a list. We have a script for you.

15 THE COURT: Okay.

16 MR. COOPER: And we need to continue to
17 talk.

18 THE COURT: Okay.

19 MR. COOPER: Because there are some
20 witnesses that we believe that are still on the
21 Government's intent-to-call list that we think are
22 enterprise, and we're negotiating those, and
23 hopefully we can get some of them away. If we
24 can't, I think we would like the guidance of the
25 Court to assist us with that.

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1 THE COURT: Okay.

2 MR. COOPER: But what we've talked about
3 is giving the Government one more day out of our
4 time. So instead of finishing on the 18th, they can
5 finish on the 21st.

6 THE COURT: Is the 18th a Friday?

7 MR. COOPER: The 18th is a Friday. The
8 21st is a Monday. And we're talking about that.
9 None of this is firm yet, but these are the
10 discussions we're having. Monday the 28th is
11 Memorial Day. What we would really, really like to
12 do is have our case finished on Friday the 25th,
13 come back on Tuesday, the 29th, and use a day and a
14 half or two days to close, and then give it to the
15 jury. And so we anticipate -- we would love to give
16 it to the jury on perhaps the 30th, rather than the
17 1st.

18 So we're trying to get to that point, but
19 we have a fair amount of work to do. I wanted to
20 give you a little heads-up, we're making progress,
21 and I think it would be safe to tell the jury today
22 that we are at a point where we will finish. We
23 just don't have the details --

24 THE COURT: Okay.

25 MR. COOPER: -- just quite yet. And if I

1 may approach --

2 THE COURT: I would like to see that. Do
3 you feel comfortable me saying that, Ms. Armijo?

4 MS. ARMIJO: Mr. Beck and have been
5 working with them, as well. I think we would like
6 an extra day so that we -- the United States has
7 already eliminated several people. And I think
8 we've agreed to -- that if we have a certain number
9 of hours that if we don't use them all, and the time
10 percentage for us will include our redirect, kind of
11 like we do with our closing statements with Your
12 Honor, and that we would have a rolling amount. For
13 instance, if I averaged an hour with one witness and
14 we go a half-hour, that half-hour is allotted to us
15 if we need it with another witness. And I think the
16 defense has agreed to that, as well.

17 The issue is, there's a few big players
18 that they say would save a lot of time that they
19 have asked us to look at -- to look over again, and
20 that is where we are at, and so we would like
21 another day so that the three of us on this side of
22 the room can sit down and go over if we really need
23 those witnesses or not and what they bring to the
24 table. Then by the end of the day, we can then meet
25 with defense counsel and go over that list and see

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1 where we are at that point. Then I think we'd be
2 able tomorrow to tell the Court where we are, if we
3 need assistance, and go from there. But I think the
4 extra day would certainly help us, Your Honor.

5 THE COURT: Is there anything I can tell
6 the jury when they come in to try to relieve some
7 stress there?

8 MR. BECK: I don't think so yet. And the
9 reason being, the list that we handed to the Court,
10 the script, it's got it lined out in days, and these
11 aren't the order of the days we see going forward.
12 The intent of this -- I mean, it's close, but the
13 intent of this is, we took seven hours for each day
14 and that's why, for instance, in day two, it says .9
15 hours for Jason Van Veghel, because day one to
16 finish him would have been 7.9 hours.

17 THE COURT: Let me do this: Let me look
18 at this, and we might talk at the next break. Let
19 me sort of get fully on top of this. I won't say
20 anything to the jury right now.

21 One thing that you might think about if I
22 could tell the jury -- I'm not going to press you
23 right this minute, but maybe a little later in the
24 day. Go ahead and line them up, Ms. Bevel.

25 Could I at least tell them -- because what

1 they've got in their head is 150 witnesses here and
2 75 over here, or something roughly like that. And
3 if I can just tell them that they're not going to
4 hear all those witnesses, I think that might go a
5 long way, and then it will give us a day to try to
6 perfect this or, as I mentioned yesterday, if we
7 want to go on the clock, I mean, I've run chess
8 clocks before, something. But it sounds like y'all
9 are moving this direction.

10 MR. BECK: Right.

11 THE COURT: That's a little less brutal
12 than sometimes a chess clock is.

13 MR. BECK: I think it's fine for you to
14 tell the jury that. You can say that I came to that
15 conclusion, Mr. Beck, and they're not going to hear
16 from 245 witnesses thanks to me.

17 MS. HARBOUR-VALDEZ: With consultation
18 with Cori.

19 MR. COOPER: Mr. Cooper and Ms.
20 Harbour-Valdez made him come to that conclusion.

21 MR. BECK: I think that's fine to tell the
22 jury that they're not going to hear from that many
23 witnesses. The last thing I'll say about this sheet
24 is, if we make it to the 21st, that would be 15
25 days. And so we're currently at 18 days. So the

1 Court can see that we still have some work there. I
2 mean, that's still 20 percent of the time here that
3 we need to figure out to cut off to make it by that.

4 THE COURT: Say that again. I didn't
5 quite absorb that.

6 MR. BECK: The last page here says that
7 day 18 -- we would finish on day 18 -- to finish our
8 case by the 21st, we would need to finish on day 15.
9 So that's three extra days' time, 21 hours or 20
10 percent of the overall time from now til then that
11 we need to still figure out how to clip off. That's
12 why we still need the extra days. We still got work
13 to do. We're getting much closer, but we still have
14 more work to do.

15 THE COURT: You're three days over.

16 MR. BECK: Right.

17 THE COURT: All right. Well, I appreciate
18 your work. I appreciate the good faith. And let me
19 look at this. Let me study this and try to get it
20 into my head.

21 MR. COOPER: And just for the record, Your
22 Honor, I don't think any defendant really wants to
23 do this, and we object to this process. We have a
24 right, we have a due process right. We have a fair
25 trial right. We don't want to in any way waive

1 those rights by doing this. But we recognize that
2 we've been ordered to discuss it, but just for the
3 record we are not --

4 THE COURT: I understand.

5 MR. COOPER: -- waiving any rights
6 whatsoever. Thank you, Judge.

7 THE COURT: I understand, appreciate it.
8 Thank you. All rise.

9 (The jury entered the courtroom.)

10 THE COURT: Good morning, ladies and
11 gentlemen. Out there in the world, this is known as
12 May Day, but in the United States we call it Law
13 Day. And so I hope you enjoy your experience on Law
14 Day in 2018.

15 Many years ago, back in the Eisenhower
16 administration, when there was a cold war going on,
17 of course, the tanks and the missiles would all go
18 down Kremlin Square, and Eisenhower thought we
19 needed to contrast our country with May Day, and so
20 he started Law Day. And so the American Bar
21 Association and the President declared May 1 Law
22 Day, and it was supposed to be the contrast. This
23 is the way we do things in our country, and other
24 countries do things a different way. So that's the
25 contrast.

1 So I'm a little less familiar with it in
2 Las Cruces. But in Roswell and in Albuquerque,
3 particularly Roswell, they have big celebrations,
4 big meals and guest speakers and things like that.
5 So it's a big deal across the country for lawyers,
6 and judges and members of the bar.

7 But it is a very special day, and you
8 know, when we're in a trial like this, you ought to
9 sit and recognize what a special country it is that
10 we decide issues this way. And I know that the
11 lawyers and the parties and certainly the Court just
12 appreciates everything you've done, how you've done
13 it, you've gone about your task, and you've just
14 been a wonderful bunch to work with.

15 You've been having a little bit extra
16 breaks here on Friday and Monday, and we've been
17 trying to squeeze some time out to talk with each
18 other. I know some of you are beginning to worry a
19 little bit about the pace of the case; you have
20 listened to those long witness lists that were read
21 to you at the beginning of the trial by both the
22 Government and the defendants.

23 I've talked to counsel during some breaks
24 and we've stayed in here and gotten in here early,
25 we worked late, especially the counsel have been

1 working. We're working to really keep our word to
2 you to have this case done in the period of time
3 that we were talking about. We're working very hard
4 to do that.

5 I've been assured by counsel this morning
6 that you're not to going to hear from all those
7 witnesses that are on the witness list. So on that
8 score, you can take a deep breath and realize we're
9 not working with that sort of number. We're working
10 with lesser numbers, and I hope to be able to tell
11 you some things in the next couple of days to give
12 you some assurance.

13 I know some of you have run into
14 difficulty with pay at work. We are all cognizant
15 of that. We're working hard to try to keep our
16 commitment to you. You are good citizens and you're
17 giving up your time, and we appreciate it, and we're
18 trying to make our commitment to you.

19 So just rest assured that all those
20 witnesses that you heard during voir dire -- you're
21 not going to see them all. We're going to be
22 working with a smaller number, and I'm working real
23 hard with counsel, and they're working very hard
24 with the parties and with each other to try to keep
25 the commitment that we made to you. And so I hope

1 that will give you a little more assurance and make
2 everything more comfortable, and I'll try to keep
3 you posted as we go how we're going. So we're
4 working real hard on that. So if you've had a
5 little extra break, wonder why we're slowing down,
6 we're in here talking about how to keep this case on
7 track and make sure it moves along in an appropriate
8 way.

9 So thank you again for what you're doing.
10 I hope that is somewhat helpful to you, and we'll
11 keep you posted as we get a little bit more firm
12 details.

13 All right. Mr. Farmer, I'll remind you
14 that you're still under oath.

15 THE WITNESS: Yes.

16 THE COURT: Mr. Benjamin, if you wish to
17 continue your cross-examination of Mr. Farmer, you
18 may do so at this time.

19 MR. BENJAMIN: Thank you, Your Honor.

20 THE COURT: Mr. Benjamin.

21 WILLIAM FARMER,
22 after having been previously duly sworn under
23 oath, was questioned, and continued testifying
24 as follows:
25

1 CONTINUED CROSS-EXAMINATION

2 BY MR. BENJAMIN:

3 Q. Have you ever -- actually, let me ask you
4 this way. Did you recover any money at the bosque
5 site?

6 A. Any money?

7 Q. Yes.

8 A. No, sir.

9 Q. On or near the body?

10 A. No, sir.

11 Q. And have you had experience witnessing
12 money burned or money being recovered after it's
13 been burned or attempted to be burned?

14 A. Yes, sir.

15 Q. Can you slide a little bit forward. You
16 were loud yesterday, but --

17 A. Can you hear me now?

18 Q. That's perfect. If money was rolled up in
19 essentially a roll -- have you ever seen a roll of
20 money?

21 A. Yes, sir.

22 Q. If money had been rolled up like that,
23 would you expect to recover it or find some trace of
24 it at the bosque site?

25 A. Yes, sir. However, I wasn't looking for

1 money. I was looking for fire patterns and stuff
2 like that. Any evidentiary items like that would be
3 recovered by state police.

4 Q. Okay. You didn't see any, though?

5 A. I didn't.

6 MR. BENJAMIN: Pass the witness, Your
7 Honor.

8 THE COURT: Thank you, Mr. Benjamin.

9 Any other defendant have cross-examination
10 of Mr. Farmer?

11 All right. Ms. Armijo, do you have
12 redirect of Mr. Farmer?

13 MS. ARMIJO: Thank you, Your Honor.

14 THE COURT: Ms. Armijo.

15 REDIRECT EXAMINATION

16 BY MS. ARMIJO:

17 Q. Mr. Farmer, I guess just to make that
18 clear, would you have had an opportunity to check
19 the body or any of the other places for money, or
20 would that have been something that would be left to
21 the New Mexico State Police that were doing the
22 criminal investigation?

23 A. My examination was completely noninvasive.
24 I didn't search any pockets or remove any clothing.
25 I don't think I even touched the decedent at all;

1 just simply photographing and observing fire
2 patterns. So that would be left to the New Mexico
3 State Police.

4 Q. And I know that Ms. Torracco was asking you
5 about accelerants, et cetera, you know, as far as
6 the scene. Were you able to tell how much
7 accelerant was used, or is that something that
8 you're not able to tell?

9 A. That's something that you're really not
10 able to tell, due to the completion of the burn.
11 Almost all the combustibles in the vehicle were
12 burned. So minute fire patterns like that are very
13 hard to detect.

14 Q. Okay. And then you just used a term, "due
15 to the completion of the burn." Do you consider the
16 vehicle a complete burn?

17 A. Yes, ma'am. With the exception of the
18 engine compartment, almost all the combustibles were
19 completely consumed by fire.

20 Q. And that brings me to the next area which
21 Ms. Torracco covered. Given that you don't know how
22 much accelerant was used, do you know how long it
23 took from the time of a first flame, so to speak, to
24 do the burn that was completed on the vehicle?

25 A. No, ma'am.

1 Q. And could it have been a long burn, so to
2 speak?

3 MR. BENJAMIN: Objection, speculation,
4 Your Honor.

5 THE COURT: Well, he's an investigator.
6 If he knows. Why don't you ask him if he has enough
7 knowledge to know.

8 A. Could I please hear the question again?
9 BY MS. ARMIJO:

10 Q. Okay. Do you have an indication of
11 whether or not this could have been a long burn, as
12 well?

13 A. Due to the completion of the -- the
14 complete consumption of all the combustibles, I
15 would say that it burned for a significant period of
16 time, yes.

17 Q. A significant period of time? And then in
18 reference to the body, that was not considered a
19 complete burn; is that correct?

20 A. Correct.

21 Q. And do you have -- can you explain to the
22 jury, if you know, based on your investigation, why
23 it was not a complete burn?

24 A. The fuel package around the vehicle, which
25 is everything that is combustible, all the

1 vegetation, clothing, and stuff like that, was not
2 significant enough to create a -- you know, a raging
3 fire around the body itself. The human body is not
4 a good fuel package. It's made mostly of water, so
5 it doesn't burn very well without other stuff around
6 it. The lack of combustibles around the body
7 limited the fire damage.

8 Q. So you just used a term "the lack of
9 combustibles." So for instance, if I were to be
10 starting a fire in a fireplace and I just put
11 gasoline in there and a little bit of shrub, would
12 it burn for any significant time?

13 A. No, ma'am.

14 Q. But if I were to put a log in there and
15 other combustible items, then would it be a longer
16 burn?

17 A. Yes, ma'am.

18 Q. All right. Thank you.

19 MS. ARMIJO: I pass the witness.

20 THE COURT: Thank you, Ms. Armijo.

21 All right, Mr. Farmer. You may step down.

22 Is there any reason that Mr. Farmer cannot
23 be excused from the proceedings? Ms. Armijo?

24 MS. ARMIJO: No, Your Honor.

25 THE COURT: Anybody have any objection to

1 him being excused?

2 Not seeing or hearing any, Mr. Farmer,
3 you're excused from the proceedings. Thank you for
4 your testimony.

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1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 8th day of May, 2018.

13
14
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